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[Third Party Communication:

UILC: 882.03-00, 6231.05-00

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From: [REDACTED]

Sent: Friday, March 27, 2015 10:12:01 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc: [REDACTED]

Subject: FW: IRC 882(c)(2) and TEFRA (POSTS-143012-14)

The section 882 limitations on deductions is not a partnership items because it is not something the partnership must determine under Subtitle A. I.R.C. 6231(a)(3) and 703.

Instead, the limitation is a partner-level affected item similar to partner limitations on partnership deductions under the at risk (sec. 465), passive loss (sec. 469) and outside basis limitations (sec. 704(d) rules. See Treas. Reg. 301.6231(a)(5)-1(a) through -1(d).

Consequently, the deductions should be disallowed through an affected item notice of deficiency issued under section 6230(a)(2)(A)(i).

Under Roberts v. Commissioner, 94 T.C. 853, 860 (1990), we do not have to open and close a TEFRA partnership proceeding before issuing such affected item notice of deficiency. But for the purposes of the affected item notice, we will be bound by the amounts reflected on the partnership return, before application of the partner-level limitations on those amounts. Id. at 862.